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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,531	08/22/2003	Patrick Lesage	LESA3001/JEK	8108

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EXAMINER
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BUMGARNER, MELBA N

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/645,531

Applicant(s)

LESAGE, PATRICK

Examiner

Melba Bumgarner

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/16/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Species A, claims 1-4 and 7-10 as amended, in the reply filed on July 7, 2005 is acknowledged.

### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

3. Figure 1C should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The abstract of the disclosure is objected to because the form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc. The abstract should describe the disclosure

sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details. Also “Figure 2” should be deleted. Correction is required. See MPEP § 608.01(b).

*Claim Objections*

5. Claims 3 and 4 are objected to because of the following informalities: recitation of “said common axis” in claim 3 and “said elastic return member” in claim 4 lack sufficient antecedent basis and “an” should read —and—in claim 3. Appropriate correction is required.

*Claim Rejections - 35 USC § 112*

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 2 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2 does not appear to further limit claim 1. It is unclear which end is referred to in “the end” in claim 10.

*Claim Rejections - 35 USC § 102*

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 2, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Yang. Yang discloses a device comprising a tubular guide element 211 having an axis and a first profiled open end, cleaning means 221 mounted movably in the tubular guide element and having an axis, support means for the cleaning means having a fixed longitudinal direction

relative to the axis of the guide element, the cleaning means fixed at a first end of the support means and having an axis constrained to remain coincident with the axis of the guide element, gripping means 22 being connected to the second end of the support means, and return means 5 tending to return the cleaning means inside the guide element (figure 16). The first profiled end is frustoconical.

*Claim Rejections - 35 USC § 103*

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 3, 4, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang. Yang discloses a device that shows the limitations as described above and gripping means comprising a body having an axis aligned with the guide element, the body being movable relative to the guide element, and the support means comprising a rod arranged along the common direction and having a first end integral with the cleaning means and second end integral with the body; however, the body is not tubular. It would have been an obvious matter of choice to one of ordinary skill in the art at the time the invention as to the specific shape of the body in that the components as claimed do not require a tubular structure. The return member is a helical spring surrounding the rod and interposed between the guide element and gripping body. It would have been an obvious matter of choice to one of ordinary skill in the art as to the cleaning means being detachable from the support means, since it has been held that constructing

a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177,179.

12. Claims 7 and 9 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Yang in view of Tcherny et al. (6,418,940). Yang discloses a device that show the limitations as described above; however, Yang does not show cleaning means comprising an interdental brush. Tcherny et al. teach a device comprising a cleaning means of an interdental brush and interdental pick as in Yang. It would have been obvious to one having ordinary skill in the art to modify the interdental pick of Yang with a brush in order to be able to use the cleaning means with a brushing effect in view of Tcherny et al. and Tcherny et al. teach that the two are essentially the same with the exception of one embodiment having bristles. It would have been an obvious matter of choice to one of ordinary skill in the art as to the specific size of the guide element.

### *Conclusion*

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Buzzi et al. (4,922,936) is cited to show the state of the art with respect to interdental cleaning device.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached at 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "Melba Bumgarner". The signature is written in a cursive, flowing style.

Melba Bumgarner  
Primary Examiner